

1 MCGREGOR W. SCOTT  
United States Attorney  
2 SAM STEFANKI  
Assistant United States Attorney  
3 501 I Street, Suite 10-100  
Sacramento, CA 95814  
4 Telephone: (916) 554-2700  
Facsimile: (916) 554-2900  
5

6 Attorneys for Plaintiff  
United States of America  
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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 JOSE LUIS SANCHEZ MENDOZA,  
15 Defendant.  
16

CASE NO. 2:20-CR-00038-KJM  
STIPULATION REGARDING USE OF  
VIDEOCONFERENCING DURING SENTENCING  
HEARING; FINDINGS AND ORDER  
DATE: August 3, 2020  
TIME: 9:00 a.m.  
COURT: Hon. Kimberly J. Mueller

17 **BACKGROUND**

18 The grand jury returned an indictment on February 20, 2020, charging the defendant, Jose Luis  
19 Sanchez Mendoza, with being a previously deported alien found in the United States in violation of 8  
20 U.S.C. § 1326. ECF No. 6. Mendoza entered into a plea agreement with the government, and pleaded  
21 guilty consistent with that agreement on June 8, 2020. ECF No. 17; ECF No. 18.

22 On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act  
23 (“CARES Act”). The CARES Act empowered the Judicial Conference of the United States and Chief  
24 District Judges to authorize plea and sentencing hearings by video or telephonic conference when  
25 (i) such hearings “cannot be conducted in person without seriously jeopardizing public health and  
26 safety;” and (ii) “the district judge in a particular case finds for specific reasons that the plea or  
27 sentencing in that case cannot be further delayed without serious harm to the interests of justice.” *Id.*,  
28 Pub. L. 116-23 § 15002(b)(2).

1 On March 29, 2020, the Judicial Conference of the United States made the findings required by  
2 the CARES Act, concluding that “emergency conditions due to the national emergency declared by the  
3 President under the National Emergencies Act (50 U.S.C. § 1601, et seq.) with respect to the  
4 Coronavirus Disease 2019 (COVID-19) have materially affected and will materially affect the  
5 functioning of the federal courts generally.”

6 On June 29, 2020, the Chief Judge of this District, per General Order 620, also made the findings  
7 required by the CARES Act: “[F]elony pleas under Rule 11 of the Federal Rules of Criminal Procedure  
8 and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure generally cannot be  
9 conducted in person in this district without seriously jeopardizing public health and safety.”  
10 Accordingly, the findings of the Judicial Conference and General Order 620 establish that sentencing  
11 hearings cannot safely take place in person.

12 In order to authorize sentencing hearings by remote means, however, the CARES Act—as  
13 implemented by General Order 620—also requires district courts in individual cases to find, for specific  
14 reasons, that felony pleas or sentencings in those cases cannot be further delayed without serious harm  
15 to the interests of justice. General Order 620 further requires that the defendant consent to remote  
16 proceedings.

17 The parties hereby stipulate and agree that each of the requirements of the CARES Act and  
18 General Order 620 have been satisfied in this case. They request that the Court enter an order making  
19 the specific findings required by the CARES Act and General Order 620. Specifically, for the reasons  
20 further set forth below, the parties agree that:

21 1) The sentencing hearing in this case cannot be further delayed without serious harm to the  
22 interest of justice, given the public health restrictions on physical contact and court closures existing in  
23 the Eastern District of California and the fact that Sanchez-Mendoza has been in custody since February;

24 2) The defendant waives his physical presence at the hearing and consents to remote hearing  
25 by videoconference and counsel joins in that waiver.

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**STIPULATION**

Plaintiff United States of America, by and through its counsel of record, and the defendant, by and through the defendant's counsel of record, hereby stipulate as follows:

1. The Governor of the State of California declared a Proclamation of a State of Emergency to exist in California on March 4, 2020.

2. On March 13, 2020, the President of the United States issued a proclamation declaring a National Emergency in response to the COVID-19 pandemic.

3. In their continuing guidance, the Centers for Disease Control and Prevention ("CDC") and other public health authorities have suggested the public avoid social gatherings and practice physical distancing (within about six feet) between individuals to slow the spread of COVID-19. The virus is thought to spread mainly from person-to-person contact, and no vaccine currently exists.

4. These social distancing guidelines—which are essential to combatting the virus—are generally not compatible with holding in-person court hearings.

5. On March 17, 2020, the Court issued General Order 611, noting the President and Governor of California's emergency declarations and CDC guidance, and indicating that public health authorities within the Eastern District had taken measures to limit the size of gatherings and practice social distancing. The Order suspended all jury trials in the Eastern District of California scheduled to commence before May 1, 2020.

6. On March 18, 2020, General Order 612 issued. The Order closed each of the courthouses in the Eastern District of California to the public. It further authorized assigned district court judges to continue criminal matters after May 1, 2020, and excluded time under the Speedy Trial Act. General Order 612 incorporated General Order 611's findings regarding the health dangers posed by the pandemic.

7. On April 16, 2020, the Judicial Council of the Ninth Circuit declared a judicial emergency in this District pursuant to 18 U.S.C. § 3174(d), based on the District's "critically low resources across its heavy caseload." The report accompanying the Judicial Council's declaration analyzed the public safety dangers associated with the COVID-19 pandemic and examined both the District's caseload (the District currently ranks first in the Ninth Circuit and eighth nationally in

1 weighted filings) and its shortage of judicial resources (the District is currently authorized only six  
2 district judges; two of those positions are currently vacant and without nominations). The report further  
3 explained that a backlog of cases exists that “can only start to be alleviated” when the CDC lifts its  
4 guidance regarding gatherings of individuals.

5 8. On April 17, 2020, General Order 617 issued, continuing court closures through June 1,  
6 2020, and authorizing further continuances of hearings and exclusions under the Speedy Trial Act. On  
7 May 13, 2020, General Order 618 issued, continuing court closures until further notice.

8 9. Given these facts, it is essential that Judges in this District resolve as many matters as  
9 possible via videoconference during the COVID-19 pandemic. By holding these hearings now, this  
10 District will be in a better position to work through the backlog of criminal and civil matters once in-  
11 person hearings resume.

12 10. The sentencing hearing in this case accordingly cannot be further delayed without serious  
13 harm to the interests of justice. If the Court were to delay this hearing until it can be held in-person, it  
14 would only add to the enormous backlog of criminal and civil matters facing the Court, and every Judge  
15 in this District, when normal operations resume.

16 11. Under CARES Act § 15002(b), defendant consents to proceed with this hearing by video-  
17 teleconference. Counsel joins in this consent.

18 IT IS SO STIPULATED.

19  
20  
21 Dated: July 23, 2020

McGREGOR W. SCOTT  
United States Attorney

22  
23 /s/ SAM STEFANKI  
SAM STEFANKI  
Assistant United States Attorney

24  
25  
26 Dated: July 23, 2020

/s/ TIMOTHY ZINDEL  
TIMOTHY ZINDEL  
Counsel for Defendant  
JOSE LUIS SANCHEZ MENDOZA

**ORDER**

1. The Court adopts the findings above.

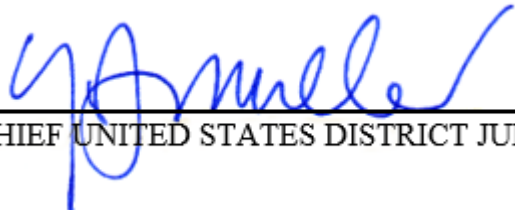
2. Further, the Court specifically finds that:

a) The sentencing hearing in this case cannot be further delayed without serious harm to the interest of justice; and

b) The defendant has waived his physical presence at the hearing and consents to remote hearing by videoconference.

3. Therefore, based on the findings above, and under the Court's authority under § 15002(b) of the CARES Act and General Order 620, the sentencing hearing in this case will be conducted by videoconference.

IT IS SO FOUND AND ORDERED this 3rd day of August, 2020.

  
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CHIEF UNITED STATES DISTRICT JUDGE